



## MEASURING THE ZIMBABWE 2013 HARMONISED ELECTIONS' COMPLIANCE IN ACCORDANCE WITH THE SADC PRINCIPLES AND GUIDELINES

From our assessment it is difficult to accept the SADC Election Observer Mission (SEOM) report as a true reflection of the credibility of Zimbabwe's 31 July 2013 harmonised elections. In respect of the 15 guidelines and standards we assessed, there was virtually no compliance in regard to 8 (53.3%) and only partial compliance in line with 6 (40%). Only 1 (6.7%) principle was fully complied with which relates to the holding of elections at regular intervals. One of the most important guidelines regarding the existence of an updated and accessible voters' roll was not complied with at all. It is our contention that this is the regionally accepted guideline that informed the SADC Election Observer Mission (SEOM), as highlighted by Mr Bernard Membe on 2 September 2013 in Harare. From our table below the first column

itemises the issues; the second outlines the SADC principle or guideline as extracted from the SADC Principles and Guidelines and the third column provides our judgment on whether or not the conduct of elections satisfied the particular SADC principle or guideline. The scale of classification shows whether in respect of each principle or guideline the conduct of elections was: **Compliant; Partially Compliant or Non-Compliant.**

ITEM	SADC GUIDELINES AND PRINCIPLES	COMPLIANCE
1	2.1.1 Full participation of the citizens in the political process	<p><b>NON-COMPLIANT</b></p> <ul style="list-style-type: none"> <li>• The voter registration exercise which closed on the 9th of July 2013 left thousands of prospective first-time voters unregistered hence disenfranchising them.</li> <li>• There was significant discrimination between rural and urban voters – with more registration centres having been deployed in rural areas than in urban areas. ZESN’s analysis of the voters roll identified a significant disparity with registration in urban wards at 67.94% and those in rural wards at 99.97%</li> <li>• Conservative ZEC preliminary figures indicate that 304 890 voters were turned away even if they had voted in the wards previously, which is significantly high</li> </ul>
2	2.1.2 Freedom of association;	<p><b>NON-COMPLIANT</b></p> <ul style="list-style-type: none"> <li>• In rural areas, especially in the Mashonaland and Midlands provinces traditional leaders aligned to ZANU PF and military personnel with a symbiotic relationship with ZANU PF coerced people to associate with ZANU PF and to disassociate with opposition parties and civil society organisations.</li> <li>• In urban areas, people were forced to associate with ZANU PF or lose their informal businesses which form the basis of their livelihoods</li> <li>• A lot of voters in the rural areas were forced to declare illiteracy and were assisted to vote by designated persons aligned to ZANU PF. ZEC preliminary figures indicate that 206 901 voters were assisted to</li> </ul>

		<p>vote which is unusually high given that Zimbabwe's literacy rate is more than 90%.</p>
3	2.1.3 Political tolerance	<p><b>PARTIAL COMPLIANCE</b></p> <ul style="list-style-type: none"> <li>• Although there were fewer cases of overt violence as compared to 2008, members of opposition parties felt insecure due to coordinated threats of violence by ZANU PF party supporters based on past experiences.</li> <li>• Since December 2012, there was systematic arrest and harassment of civil society leaders who embarked on voter registration and voter mobilisation. For example, National Youth Development Trust[NYDT], ZIMRIGHTS, Centre for Community Development in Zimbabwe (CCDZ), Community Tolerance, Reconciliation and Development Trust, Election Resource Centre and Zimbabwe Election Support Network (ZESN).</li> <li>• There was no freedom from fear of violence. ZANU PF supporters threatened citizens with violence synonymous with the June 27 2008 election if they were going to vote for MDC.</li> <li>• For example, Jabulani Sibanda the war veteran leader aligned to ZANU PF travelled the length and breadth of the country threatening to roast the livers of opposition supporters if they were to vote for MDC.</li> <li>• Even on polling day, in Muzarabani North Ward 27 for example, at Machaya Primary School polling station, Godfrey Magaya of ZANU PF was intimidating voters in the queue. He was telling people that they will be beaten up if ZANU-PF loses the election.</li> </ul>

		<ul style="list-style-type: none"> <li>This was replicated in various polling stations in the rural areas and ZEC took no action</li> </ul>
4	2.1.4 Regular intervals for elections as provided for by the respective National Constitutions;	<b>COMPLIANT</b>
5	2.1.5 Equal opportunity for all political parties to access the state media;	<p><b>NON-COMPLIANT</b></p> <ul style="list-style-type: none"> <li>Print and electronic state owned media was partisan and openly supported ZANU PF and its Presidential candidate.</li> <li>In the election month of July 2013, the state owned Zimbabwe Broadcasting Corporation (ZBC) carried 114 stories on party campaign activities, 79 (69%) were on ZANU-PF. Twenty-six (23%) were on Prime Minister Tsvangirai's MDC party. Four (4%) were on the other MDC formation led by Industry Minister Welshman Ncube. Three (3%) were on ZAPU, while the remaining two was on the Zimbabwe Development Party, led by aspiring presidential candidate, Kisinoti Mukwazhe.</li> <li>9 out of 10 of President Mugabe's political rallies were covered live on ZBC TV whilst none of the 60 campaign rallies held by former Prime Minister Tsvangirai and other opposition parties was broadcast live.</li> </ul>
6	2.1.6 Equal opportunity to exercise the right to vote and be voted for;	<p><b>NON-COMPLIANT</b></p> <ul style="list-style-type: none"> <li>Persons who were refused the chance to register and those who were intimidated were disenfranchised.</li> <li>Persons who were turned away from polling stations, even when they had voted in those wards previously were disenfranchised</li> </ul>

		<ul style="list-style-type: none"> <li>• Persons in the Diaspora were barred from exercising their right to vote</li> <li>• Some provinces were allocated more polling stations compared to others, despite the latter having higher population densities, e.g. Harare province with an estimated 1.2 million voters (the highest in all of the provinces) had 830 polling stations while Manicaland province, with an estimated voter population of only 807,300 was allocated 1297 polling stations. Also the Midlands province was allocated 1341 polling stations with an estimated voting population of a little over 762,000.</li> </ul>
7	2.1.7 Independence of the Judiciary and impartiality of the electoral institutions	<p><b>NON-COMPLIANT</b></p> <ul style="list-style-type: none"> <li>• The involvement of the army and intelligence in the ZEC secretariat is at the core of the credibility of the elections. ZEC retained members of the army and intelligence who were of the secretariat that rigged the March 29 2008 Presidential election. For example, Major Utoile Silaigwana is a soldier who served in the operations division of ZEC; the ZEC public relations officer Shupikai Mashereni, is a member of the Zimbabwe Defence Forces. The Chief Elections Officer, Lovemore Sekeremayi once worked in President Mugabe’s office. ZANU PF rejected spirited efforts by the MDC to ensure that the electoral institutions are staffed by well-trained personnel who are not only independent but seen to be impartial.</li> <li>• Lack of professionalism and independence has forced two of ZEC’s Commissioners to resign in the aftermath of the election.</li> <li>• ZEC has failed the transparency test, failing to provide the basic information such as consolidated results and voter material as requested of them and required by law.</li> <li>• The electoral body did not appear to be in control of the electoral process.</li> </ul>

		<ul style="list-style-type: none"> <li>• ZEC is therefore not an independent or accountable body</li> <li>• Judiciary is not independent from the executive, and politically, from ZANU PF. Since 2010, the President has appointed or elevated 23 judges to the High Court, Supreme Court and the new Constitutional Court without consulting former Prime Minister Morgan Tsvangirai, contrary to the requirements of the GPA and the Constitution.</li> <li>• Consequently, civil society does not view the judiciary as independent of ZANU PF.</li> </ul>
8	2.1.8 Voter education.	<p><b>PARTIAL COMPLIANCE</b></p> <ul style="list-style-type: none"> <li>• ZEC took the greater space in conducting voter education although there was clearly insufficient time for effective delivery given the short period between proclamation and the election date.</li> <li>• The Zimbabwe government applied pressure on ZEC to disqualify some civil society organizations to conduct voter education such as the Electoral Institute of Southern Africa (EISA) and Crisis in Zimbabwe Coalition.</li> <li>• Further, civil society was severely restricted from carrying out voter education. Consequently, the voter registration exercise was marred by limited voter education</li> </ul>
9	4.1.1 Constitutional and legal guarantees of freedom and rights of the citizens;	<p><b>PARTIAL COMPLIANCE</b></p> <ul style="list-style-type: none"> <li>• While the new Constitution contains extensive provisions guaranteeing the rights of citizens, there were no legislative reforms of restrictive laws such as the Public Order and Security Act and the Access to Information and Protection of Privacy Act. The prosecution authorities continued to use the notorious section 121 of the Criminal Procedure and Evidence Act which ensures that persons admitted to bail nevertheless remain in police custody. Effective</li> </ul>

		<p>enforcement of constitutional rights remained a key issue of contention.</p>
10	<p><i>4.1.2 Conducive environment for free, fair and peaceful elections</i></p>	<p><b>PARTIAL COMPLIANCE</b></p> <ul style="list-style-type: none"> <li>• Although the environment was seemingly peaceful, this was a façade for a litany of problems that affected the electoral atmosphere. For example, ZANU PF leaders and traditional leaders exerted undue influence on voters barring them from exercising their free will. The threat of violence, based on previous experiences remained a key problem. The security services chiefs did not retract their previous threatening statements to the effective</li> <li>• Peace also entails freedom from fear of violence</li> </ul>
11	<p><i>4.1.3 Non-discrimination in the voters' registration;</i></p>	<p><b>NON-COMPLIANT</b></p> <ul style="list-style-type: none"> <li>• Although the new Constitution restored the rights of citizens who had been previously categorised as aliens, the handling of the voter registration process restricted their ability to register. Consequently, thousands of former aliens were left disenfranchised.</li> <li>• There was also significant discrimination between rural and urban voters – with more registration centres having been deployed in rural areas than in urban areas.</li> <li>• The voter registration and inspection exercise was supposed to be ward-based but it became district-based due to lack of funds according to the Registrar General. This made it difficult for people to register to vote.</li> </ul>

12	4.1.4 Existence of updated and accessible voters roll;	<p><b>NON-COMPLIANT</b></p> <ul style="list-style-type: none"> <li>• Sections 20 and 21 of the Zimbabwe Electoral Act requires the Zimbabwe Electoral Commission (ZEC) to provide a copy of the voters roll within 'a reasonable' period of time.</li> <li>• However, the printed copies of the voters' roll (two truckloads of paper) were only made available at 5pm on the voting day, which made inspection and verification by voters impossible and opened the system to manipulation.</li> <li>• There was systematic duplication and omission of voter names on the voters' roll</li> <li>• ZEC printed 8.7 million ballot papers translating to 35% above the number of registered voters on the voters' roll. This was significantly higher than international best practice (5 -10%) and increased the chances of rigging</li> <li>• In the post-election period, ZEC has failed to convincingly account for the unused ballot papers.</li> <li>• Some ballot booklets used on polling day had missing ballot papers and were not serially identified.</li> <li>• Thousands of people were allowed to vote more than once using voter registration slips which were not even authentic.</li> <li>• The absence of an up-to-date voters' roll opened an opportunity for manipulation through voter registration slips</li> </ul>
13	4.1.5 Timeous announcement of the election date;	<p><b>NON-COMPLIANT</b></p> <ul style="list-style-type: none"> <li>• There was very limited time between the official announcement and the election date. Consequently, the processes were rushed, resulting in a chaotic Special Voting system even by ZEC's own admission. Although SADC recommended an extension of time for</li> </ul>



		the election date, this was strongly resisted by ZANU PF with the concurrence of the courts. The lack of time showed in ZEC's lack of preparedness in conducting a free and fair election.
14	4.1.7 Polling Stations should be in neutral places;	<p><b>PARTIAL COMPLIANCE</b></p> <ul style="list-style-type: none"> <li>Some polling stations were located in resettlement farms that are known to be hostile to opposition supporters as they depict total institutions where ZANU PF with the help of the state is in constant surveillance of the citizens.</li> </ul>
15	4.1.8 Counting of the votes at polling stations;	<p><b>PARTIAL COMPLIANCE</b></p> <ul style="list-style-type: none"> <li>In the majority of cases, counting was done at polling stations except for a few cases in Matabeleland North.</li> </ul>
16	4.1.10 SADC Election Observation Missions should be deployed at least two weeks before the voting day.	Not applicable in the recent election.

In light of these findings, it is our considered view that while we await the final copy of the SADC Electoral Observer Mission (SEOM)'s report on Zimbabwe's July 31 2013 election – the summary statement by Hon. Bernard Membe, has ample evidence that SADC itself has no respect for, let alone adherence to, their own Principles and Guidelines Governing Democratic Elections.

The SEOM, which largely okayed the July 31 poll as “ free, peaceful and generally reflective of the will of the people”, has set the tone for credibility with qualifiers where elections in the region is concerned. What makes it worse is the fact that although several glaring irregularities were identified and noted, and although SADC could not declare the elections as having been fair - it still lent its credibility to the process through affirming it.

The final statement of the Observer mission as presented by Honorable Bernard Membe, shows evidence of the Observer mission having downplayed and or omitted some serious concerns around state media bias, fake voter registration slips, high numbers of assisted and turned away voters and the unavailability of the voters' roll for inspection by parties and voters as recorded in the SEOM preliminary report of August 2.

This lack of respect has the very negative impact of setting the bar very lowly, for countries in the region where the credibility of electoral processes, their freeness and fairness as well as ability to be reflective of the will of the people is concerned. This final position is an unfortunate green light to other countries in the SADC region and the continent of Africa, to lessen efforts at adherence to set standards where democratic elections are concerned.